

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35901]

Paul Didelius—Continuance in Control—CCET, LLC

Paul Didelius (Didelius), an individual and noncarrier, has filed a verified notice of exemption pursuant to 49 C.F.R. § 1180.2(d)(2) to continue in control of CCET, LLC (CCET), a Class III rail carrier.¹ Didelius owns 100% of CCET, a short line rail carrier organized for the purpose of leasing and operating a line of railroad owned by the Norfolk Southern Railway Company (NSR).

This transaction is related to a concurrently filed verified notice of exemption in CCET, LLC—Lease & Operation Exemption—Rail Line of Norfolk Southern Railway in Clermont, Brown, & Adams Counties, Ohio, Docket No. FD 35900, in which CCET seeks Board approval to amend an agreement to allow CCET to lease additional NSR CT Line trackage, from milepost CT 32.83 to milepost CT 62.20, east of Seaman, Ohio.²

¹ Didelius currently owns 100% of LRY, LLC d/b/a Lake Railway (LRY), a Class III carrier that leases and operates rail lines owned by Union Pacific Railroad Company in California and Oregon; he also owns 49% of YCR Corporation (YCR), a Class III rail carrier established for the purpose of leasing and operating a line of railroad owned by Yakima County, Washington.

² It appears that Didelius controlled LRY and YCR when CCET first became a carrier through its lease of another portion of the CT Line in 2014, but he failed to seek authority for continuance in control at that time. See CCET, LLC—Lease & Operation Exemption—Rail Line of Norfolk S. Ry., FD 35810 (STB served Apr. 4, 2014). Therefore, Didelius should have sought continuance in control authority at that time. We
(continued . . .)

The transaction may be consummated on or after February 21, 2015, the effective date of the exemption (30 days after the verified notice of exemption was filed).

Didelius represents that: (1) CCET does not connect with any of the other rail lines operated and controlled by Didelius; (2) there are no plans to acquire additional rail lines for the purpose of making a connection; and (3) each of the carriers involved the continuance in control transaction is a Class III carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. § 11323. See 49 C.F.R. § 1180.2(d)(2).

Under 49 U.S.C. § 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under §§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than February 13, 2015 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35901, must be filed with Surface Transportation Board, 395 E Street, S.W., Washington, DC

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will treat the current verified notice of exemption as a belated request for continuance in control authority.

20423-0001. In addition, one copy of each pleading must be served on James H. M. Savage, 22 Rockingham Court, Germantown, MD 20874.

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“WWW.STB.DOT.GOV.”

Decided: February 3, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.